

ASSEMBLY, No. 748

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Makes various changes to law addressing meetings of public bodies to provide public with greater access to meetings and information about meetings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 11/8/2021)

1 AN ACT making various changes to the law addressing meetings of
2 public bodies and amending P.L.2002, c.91 and amending and
3 supplementing P.L.1975, c.231.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. Section 2 of P.L.1975, c.231 (C.10:4-7) is amended to read
9 as follows:

10 2. The Legislature finds and declares that the right of the public
11 to be present at all meetings of public bodies, and to witness in full
12 detail all phases of the deliberation, policy formulation, and
13 decision making of public bodies, is vital to the enhancement and
14 proper functioning of the democratic process; that secrecy in public
15 affairs fosters the risk of corruption and official misconduct,
16 undermines the faith of the public in government and the public's
17 effectiveness in fulfilling its role in a democratic society, and
18 hereby declares it to be the public policy of this State to insure the
19 right of its citizens to have adequate advance notice of and the right
20 to attend, and to review the minutes and recordings of, all meetings
21 of public bodies at which any business affecting the public is
22 discussed or acted upon in any way except only in those
23 circumstances where otherwise the public interest would be clearly
24 endangered or the personal privacy or guaranteed rights of
25 individuals would be clearly in danger of unwarranted invasion.

26 The Legislature further declares it to be the public policy of this
27 State to insure that the aforesaid rights are implemented pursuant to
28 the provisions of this act so that no confusion, misconstructions or
29 misinterpretations may thwart the purposes hereof.

30 The Legislature, therefore, declares that it is the understanding
31 and the intention of the Legislature that in order to be covered by
32 the provisions of this act a public body must be organized by law
33 and be collectively empowered as a multi-member voting body to
34 spend public funds or affect persons' rights; that, therefore, informal
35 or purely advisory bodies with no effective authority are not
36 covered, nor are groupings composed of a public official with
37 subordinates or advisors, who are not empowered to act by vote
38 such as a mayor or the Governor meeting with department heads or
39 cabinet members, that specific exemptions are provided for the
40 Judiciary, parole bodies, the State Commission of Investigation, the
41 Apportionment Commission and political party organization; that to
42 be covered by the provisions of this act a meeting must be open to
43 all the public body's members, and the members present must intend
44 to discuss or act on the public body's business, except that a
45 subcommittee of a public body may be subject to certain of the act's

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 provisions that address adequate notice of meetings and records of
2 meetings; and therefore, typical partisan caucus meetings and
3 chance encounters of members of public bodies are neither covered
4 by the provisions of this act, nor are they intended to be so covered.
5 (cf: P.L.1981, c.176, s.1)

6
7 2. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Public body" means a commission, authority, board,
11 council, committee or any other group of two or more persons
12 organized under the laws of this State, and collectively empowered
13 as a voting body to perform a public governmental function
14 affecting the rights, duties, obligations, privileges, benefits, or other
15 legal relations of any person, or collectively authorized to spend
16 public funds including the Legislature, but does not mean or include
17 the judicial branch of the government, any grand or petit jury, any
18 parole board or any agency or body acting in a parole capacity, the
19 State Commission of Investigation, the Apportionment Commission
20 established under Article IV, Section III, of the Constitution, or any
21 political party committee organized under Title 19 of the Revised
22 Statutes. "Public body" also means, but is not limited to, an
23 independent authority, redevelopment entity, or improvement
24 authority, as well as any quasi-governmental agency. "Public
25 body" also means, but is not limited to, the New Jersey League of
26 Municipalities, the New Jersey Association of Counties, the New
27 Jersey State Interscholastic Athletic Association, the New Jersey
28 School Boards Association, the Educational Information and
29 Resource Center, and any joint insurance fund established by two or
30 more public bodies, and any substantially similar successor
31 organization or association.

32 b. "Meeting" means and includes any gathering whether
33 corporeal or by means of communication equipment, which is
34 attended by, or open to, all of the members of a public body, or
35 attended by, or open to, all members of a subcommittee if the public
36 body has determined that the meetings of that subcommittee shall
37 be open to the public in accordance with section 18 of P.L. _____,

38 c. (C. _____) (pending before the Legislature as this bill), and held
39 with the intent, on the part of the members of the body present, to
40 discuss or act as a unit upon the specific public business of that
41 body. Meeting does not mean or include any such gathering (1)
42 attended by less than **an effective majority of the members of** a
43 quorum of a public body, or (2) attended by or open to all the
44 members of three or more similar public bodies at a convention or
45 similar gathering. Meeting does not include a chance encounter or
46 any gathering at which members of a public body or of a
47 subcommittee do not discuss or act upon the public business of that
48 public body or subcommittee.

1 c. "Public business" means and includes all matters which
2 relate in any way, directly or indirectly, to the performance of the
3 public body's functions or the conduct of its business.

4 d. "Adequate notice" means written advance notice of at least
5 48 hours, giving the time, date, location and **【**, to the extent
6 known,**】** the agenda of any regular, special or rescheduled meeting,
7 which notice shall accurately state whether formal action may or
8 may not be taken and which shall be (1) prominently posted on the
9 public body's Internet site, if the public body has established an
10 Internet site, and in at least one public place reserved for such or
11 similar announcements, (2) mailed, telephoned, **【**telegrammed**】**
12 faxed, mailed electronically, or hand delivered to at least two
13 newspapers which newspapers shall be designated by the public
14 body to receive such notices because they have the greatest
15 likelihood of informing the public within the area of jurisdiction of
16 the public body of such meetings, one of which shall be the official
17 newspaper, where any such has been designated by the public body
18 or if the public body has failed to so designate, where any has been
19 designated by the governing body of the political subdivision whose
20 geographic boundaries are coextensive with that of the public body
21 and (3) filed with the clerk of the municipality when the public
22 body's geographic boundaries are coextensive with that of a single
23 municipality, with the clerk of the county when the public body's
24 geographic boundaries are coextensive with that of a single county,
25 and with the Secretary of State if the public body has Statewide
26 jurisdiction. For any other public body the filing shall be with the
27 clerk or chief administrative officer of such other public body and
28 each municipal or county clerk of each municipality or county
29 encompassed within the jurisdiction of such public body. Where
30 annual notice or revisions thereof in compliance with section 13 of
31 this act set forth the location of any meeting, no further notice shall
32 be required for such meeting, except for notice pertaining to
33 agendas and formal action on the public body's Internet site, if the
34 body has established an Internet site, and posting in at least one
35 public place reserved for such or similar announcements, transmittal
36 to the newspapers described in paragraph (2) of this subsection and
37 to any member of the public who shall have requested such notice.
38 Notice shall not be considered "adequate notice" within the
39 meaning of this subsection unless it includes the estimated starting
40 time, as nearly so as can be established, for the beginning of the
41 portion of any meeting from which the public is not excluded.

42 e. "Agenda" means the list of all items of business to be
43 discussed or voted on at a public meeting. For purposes of
44 providing adequate notice, agendas shall include each individual
45 item to be discussed or acted upon, and a brief description thereof,
46 and shall identify the names of the parties to and approximate dollar
47 amounts of any contracts, including employment contracts and
48 collective bargaining agreements, for which agreements the agenda

1 shall list the number, but not the names, of employees covered
2 thereby, to be discussed or acted upon. No public body shall act
3 upon a matter that is not listed on the agenda. In addition, a public
4 body, upon the affirmative vote of a majority of the members
5 present at a meeting, may add an item to the agenda for that
6 meeting when necessary to deal with a matter of such urgency and
7 importance that a delay for the purpose of providing adequate
8 notice would be likely to result in substantial harm to the public
9 interest, and provided that the minutes contain a statement that
10 explains the reason for adding that item to the agenda, why the item
11 did not appear on the agenda for that meeting, and why delaying
12 consideration of the item would be likely to result in substantial
13 harm to the public interest, except that the Legislature may add an
14 item to its agenda at any time. Whenever a public body releases to
15 the public an agenda of a regular, special, or rescheduled meeting of
16 that public body, pursuant to this subsection, that includes a
17 reference to an attachment, appendix, or other document that is a
18 government record, the agenda shall include a statement that the
19 attachment, appendix, or other document shall be available to the
20 public for inspection, copying, or the purchase of copies. If any
21 member of the public, at least 24 hours prior to a meeting, requests
22 a copy of any attachment, appendix, or other document that is a
23 government record referenced in an agenda, the custodian thereof
24 shall send an electronic copy to the requestor. If such a request is
25 received within 24 hours prior to a meeting, an attachment,
26 appendix, or other document requested shall be made available to
27 the requestor at the meeting of the public body.

28 f. "Subcommittee" means any subordinate committee of a
29 public body, except the Legislature, regardless of label, that is
30 formally created by that body, comprised of two or more members,
31 but less than a quorum, of the public body.

32 g. "Quasi-governmental agency" means any association,
33 commission, agency, authority, organization, public-private entity,
34 or any other entity, in which one or more public agencies exercise
35 substantial control as evidenced by whether the public agency, as
36 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
37 ability to review, approve, or reject the quasi-governmental
38 agency's proposals or plans, holds a beneficial interest in the quasi-
39 governmental agency's assets, is the primary source of funding of,
40 or is indebted to, or is a creditor of, or guarantor of the debts of, the
41 quasi-governmental agency. The term shall not include any
42 organization organized under paragraph (3) of subsection (c) of
43 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
44 that was not created by, or with the approval of, a public agency
45 primarily for the purpose of assisting that public agency or any
46 labor organization or any contractor providing goods or services to
47 a public agency. However, nothing contained herein shall affect the
48 application of P.L.1975, c.231 (C.10:4-6 et seq.) to entities that
49 otherwise fall within the definition of "public body."

1 h. "Quorum" means a majority of the full membership of a
2 public body or of a subcommittee.

3 (cf: P.L.1981, c.176, s.2)

4
5 3. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read
6 as follows:

7 4. a. Except as provided by subsection b. of this section, or for
8 any meeting limited only to consideration of items listed in
9 subsection b. of section 7 [b.] of P.L.1975, c.231 (C.10:4-12), no
10 public body, and no subcommittee which the public body has
11 determined shall have meetings open to the public in accordance
12 with section 18 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), shall hold a meeting unless adequate notice
14 thereof has been provided to the public.

15 b. Upon the affirmative vote of three-quarters of the members
16 present a public body may hold a meeting notwithstanding the
17 failure to provide adequate notice if:

18 (1) such meeting is required in order to deal with matters of
19 such urgency and importance that a delay for the purpose of
20 providing adequate notice would be likely to result in substantial
21 harm to the public interest; and

22 (2) the meeting is limited to discussion of and acting with
23 respect to such matters of urgency and importance; and

24 (3) notice of such meeting is provided as soon as possible
25 following the calling of such meeting by posting written notice of
26 the same on the public body's Internet site, if the public body has
27 established an Internet site and in the public place described in
28 subsection d. of section 3 [d.] of P.L.1975, c.231 (C.10:4-8) above,
29 and also by notifying the two newspapers described in section 3. d.
30 by telephone, **[telegram,]** fax machine, electronic mail, or by
31 delivering a written notice of same to such newspapers; and

32 (4) **[either (a)]** the public body could not reasonably have
33 foreseen the need for such meeting at a time when adequate notice
34 could have been provided **;** or (b) although the public body could
35 reasonably have foreseen the need for such meeting at a time when
36 adequate notice could have been provided, it nevertheless failed to
37 do so**].**

38 (cf: P.L.1975, c.231, s.4)

39
40 4. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read
41 as follows:

42 1. In addition to the notice requirements of the "Open Public
43 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
44 **[may]** shall provide electronic notice of any meeting of the public
45 body through the Internet, if the public body maintains an Internet
46 site or pages on an Internet site.

47 As used in this section, "electronic notice" means advance notice
48 available to the public via electronic transmission of at least 48

1 hours, giving the time, date, location and **【**, to the extent known,**】**
2 the agenda of any regular, special or rescheduled meeting, which
3 notice shall accurately state whether formal action may or may not
4 be taken at such meeting.

5 As used in this section, "Internet" means the international
6 computer network of both federal and non-federal interoperable
7 packet switched data networks.

8 (cf: P.L.2002, c.91, s.1)

9

10 5. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
11 as follows:

12 7. a. Except as provided by subsection b. of this section all
13 meetings of public bodies shall be open to the public at all times.
14 Except for communications that are purely administrative or
15 procedural in nature, no member of a public body, other than the
16 Legislature, during any meeting of that public body to which the
17 public is admitted, shall communicate privately, by means of
18 communication equipment, including electronic mail, instant
19 messaging or similar technologies, including directly or indirectly
20 through staff or legal counsel, with any other member of the public
21 body about any matter on the agenda for that meeting, and no
22 member shall communicate privately with any other person, other
23 than staff, legal counsel, or independent consultants or advisers,
24 about any matter on the agenda for that meeting by means of
25 communication equipment, including electronic mail, instant
26 messaging or similar technologies. Nothing in this act shall be
27 construed to limit the discretion of a public body to permit, prohibit,
28 or regulate the active participation of the public at any meeting,
29 except that a **【municipal governing】** public body **【and a board of**
30 **education】** , other than the Legislature, shall be required to set aside
31 a portion of every meeting of the **【municipal governing】** public
32 body **【or board of education,** the length of the portion to be
33 determined by the municipal governing body or board of
34 education,**】** for public comment at the meeting in question, with
35 such comments being limited to items on the agenda and on any
36 governmental 【or school district】 issue that a member of the public
37 feels may be of concern to and within the authority of the 【residents
38 of the municipality or school district】 public body. A public body,
39 other than the Legislature, shall permit all proceedings of any
40 public meeting to be recorded, photographed, audiotaped,
41 videotaped, broadcast or recorded for broadcast by any member of
42 the public or news organization, subject only to such reasonable
43 rules as the public body may adopt prior to the meeting to minimize
44 undue disruption to its meetings.

45 A public body shall prepare a written policy that is intended to
46 maximize public participation and that addresses the amount of time
47 it will devote to receiving public comments at meetings and shall
48 include that written policy on each meeting agenda prepared by the

1 public body and on the public body's Internet site, if the public
2 body has established an Internet site, and in the public place
3 described in subsection d. of section 3 of P.L.1975, c.231 (C.10:4-
4 8). The Director of the Division of Local Government Services in
5 the Department of Community Affairs shall prepare guidelines for
6 public bodies that create minimum standards ensuring public
7 participation.

8 Whenever the provisions of any other law address the receipt of
9 public comments by a public body, the provisions of that law and
10 the provisions of this section shall be complied with to the
11 maximum extent possible and practical; however, the provisions of
12 the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.),
13 regarding the receipt of public comments shall be followed
14 notwithstanding the provisions of this section.

15 b. A public body may exclude the public only from that portion
16 of a meeting at which the public body discusses any:

17 (1) matter which, by express provision of federal law, State
18 statute, or rule of court shall be rendered confidential or excluded
19 from the provisions of subsection a. of this section;

20 (2) matter in which the release of information would impair a
21 right to receive funds from the Government of the United States;

22 (3) material the disclosure of which constitutes an unwarranted
23 invasion of individual privacy such as any records, data, reports,
24 recommendations, or other personal material of any educational,
25 training, social service, medical, health, custodial, child protection,
26 rehabilitation, legal defense, welfare, housing, relocation,
27 insurance, and similar program or institution operated by a public
28 body pertaining to any specific individual admitted to or served by
29 an institution or program, including but not limited to, information
30 relative to the individual's personal and family circumstances, and
31 any material pertaining to admission, discharge, treatment,
32 progress, or condition of any individual, unless the individual
33 concerned (or, in the case of a minor or an incapacitated individual,
34 the individual's guardian) shall request in writing that the material
35 be disclosed publicly;

36 (4) collective bargaining agreement, or the terms and conditions
37 which are proposed for inclusion in any collective bargaining
38 agreement, including the negotiation of the terms and conditions
39 thereof with employees or representatives of employees of the
40 public body;

41 (5) matter involving the purchase, lease, or acquisition of real
42 property with public funds, the setting of banking rates, or
43 investment of public funds, if **[it]** public discussion could adversely
44 affect the public interest if discussion of the matters were disclosed;

45 (6) tactics and techniques utilized in protecting the safety and
46 property of the public, provided that their disclosure could impair
47 that protection, or investigations of violations or **[possible]**
48 probable violations of the law;

1 (7) **【pending or anticipated litigation or contract negotiation】**
2 consultation with legal counsel concerning the legal rights and
3 duties of the public body with regard to current litigation or
4 litigation likely to be filed in connection with any executed contract
5 which the public body is, or is likely to become, a party, or
6 concerning current or anticipated contract negotiations, other than
7 in subsection b. (4) herein in which the public body is, or may
8 become, a party, or matters falling within the attorney-client
9 privilege, to the extent that confidentiality is required in order for
10 the attorney to exercise his ethical duties as a lawyer;

11 (8) matter involving the employment, appointment, termination
12 of employment, **【terms and conditions of employment,】** evaluation
13 of the performance of, promotion, or disciplining of any specific
14 **【prospective public officer or employee or current】** public officer
15 or employee, prospective or current, employed or appointed by the
16 public body **【,** unless all the individual employees or appointees
17 whose rights could be adversely affected request in writing that the
18 matter or matters be discussed at a public meeting**】.** Public bodies
19 shall give written notice of at least two business days to any officer
20 or employee, and any adversely affected individual or individuals,
21 in advance of any proposed meeting at which his or her
22 employment, appointment, termination, evaluation of the
23 performance of, promotion or discipline may be discussed. The
24 matter or matters pertaining to him or her shall be discussed in
25 closed session unless the officer or employee and any adversely
26 affected individual or individuals, but not a third party
27 representative, requests in writing that the matter or matters be
28 discussed in open session. This paragraph shall not apply to a
29 public body's discussions or actions relating to tenure matters if any
30 statute or collective bargaining agreement shall provide otherwise.

31 (9) deliberations of a public body occurring after a public
32 hearing that may result in the imposition of a specific civil penalty
33 upon the responding party or the suspension or loss of a license or
34 permit belonging to the responding party as a result of an act or
35 omission for which the responding party bears responsibility.

36 c. The grounds for exclusion of the public set forth in
37 subsection b. of this section shall be construed strictly to minimize
38 instances in which meetings or portions of meetings are closed to
39 the public. The public may not be excluded from a public body's
40 discussion of actual contracts or executed contracts, except that a
41 public body may go into closed session for consultations with legal
42 counsel, pursuant to paragraph (7) of subsection b. of this section,
43 when there is current litigation, or litigation is likely to be filed,
44 concerning an actual or executed contract.

45 (cf: P.L.2013, c.103, s.57)

46

47 6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
48 as follows:

1 8. No public body shall exclude the public from any meeting to
2 discuss any matter described in subsection b. of section 7 [b.] of
3 P.L.1975, c.231 (C.10:4-12) until the public body shall first adopt a
4 resolution, at a meeting to which the public shall be admitted:

5 a. Stating the **[general nature of the]** reasonably specific
6 subject to be discussed and the reasonably specific basis for
7 excluding the public; and

8 b. Stating as precisely as possible, the time when and the
9 circumstances under which the discussion conducted in closed
10 session of the public body can be disclosed to the public.

11 (cf: P.L.1975, c.231, s.8)

12
13 7. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
14 as follows:

15 9. a. The Legislature shall keep comprehensive minutes of all
16 of its meetings showing the time and place, the members present,
17 the subjects considered, the actions taken, the vote of each member,
18 and any other information required to be shown in the minutes by
19 law, which shall be promptly available to the public to the extent
20 that making such matters public shall not be inconsistent with
21 section 7 of P.L.1975, c.231 (C.10:4-12).

22 b. Each public body, other than the Legislature, shall [keep
23 reasonably comprehensible] keep comprehensive minutes of all its
24 meetings, including any portion of a meeting from which the public
25 was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),
26 showing, at a minimum, the time and place, the members present,
27 the subjects considered, the actions taken, including all motions
28 made, the identities of the moving and seconding members, the vote
29 of each member and each member's stated reasons, if any, for his or
30 her action or vote, the identity of each member of the public who
31 spoke and a summary of what was said, and any other information
32 required to be shown in the minutes by law [, which] .

33 Minutes shall be made available to the public as soon as possible
34 but not later than 15 business days after the next meeting of the
35 public body occurring after the meeting for which the minutes were
36 prepared, to the extent that making such matters public shall not be
37 inconsistent with section 7 of P.L.1975, c.231 (C.10:4-12). In the
38 case of a municipality having a population of 5,000 or fewer
39 inhabitants according to the most recent federal decennial census, a
40 board of education having a total district enrollment of 500 or fewer
41 pupils, or a public authority having less than \$10 million in assets,
42 the minutes of the meeting shall be made available not later than 20
43 business days after the next subsequent meeting.

44 A public body may vote at that next subsequent meeting in favor
45 of a reasonable delay in making the minutes available due to an
46 emergency that would preclude the public body from abiding by the
47 15- or 20-day requirement, respectively. Prior to taking such vote,
48 the public body shall announce and provide a detailed explanation

1 of the reason for the delay. The public body shall include that
2 explanation in the minutes of the meeting at which the vote took
3 place.

4 As used in this subsection, “emergency” means any sudden,
5 unexpected, or unforeseeable event or condition, natural or man-
6 made, which interferes with the conduct of normal business
7 operations of a public body for three or more calendar days.
8 Without limiting the generality of the foregoing, an emergency may
9 arise when a condition such as any one or more of the following
10 arises: forces of the natural elements, fire, explosions, epidemics,
11 power failures, labor disputes, transportation failures, war, riots,
12 civil disturbances, and other acts of lawlessness or violence.

13 c. Any member of a public body, other than the Legislature,
14 who becomes aware of a meeting held in violation of P.L.1975,
15 c.231 (C.10:4-6 et seq.), including electronic communications
16 among members of a public body or of a subcommittee which the
17 public body has determined shall hold meetings open to the public
18 in accordance with section 18 of P.L. , c. (C.) (pending
19 before the Legislature as this bill), constituting a quorum thereof,
20 that do not address a purely administrative matter, shall inform the
21 presiding member who shall ensure that minutes of such meetings
22 shall be made, and such electronic communications, if any, shall be
23 filed with the clerk of the public body for a period of time to be
24 determined by the State Records Committee to permit their use in
25 litigation, to enforce the provisions of P.L.1975, c.231 (C.10:4-6 et
26 seq.), or for public access.

27 d. Each public body that possesses sound recording devices
28 that are available and functioning shall cause to be recorded by
29 those sound recording devices only the public portions of all
30 meetings of that public body, including any emergency meeting
31 held pursuant to section 4 of P.L.1975, c.231 (C.10:4-9), and shall
32 maintain possession of the recordings for a period of time to be
33 determined by the State Records Committee to permit their use in
34 litigation, to enforce the provisions of P.L.1975, c.231 (C.10:4-6 et
35 seq.), or for public access. Sound recordings, or any video
36 recordings, shall reflect the public portions of meetings in their
37 entirety, including the public comment portions of meetings. The
38 unedited recordings shall be promptly made available to the public,
39 but not later than the fifth business day following the meeting, to
40 the extent that making such matters public shall not be inconsistent
41 with section 7 of this act. Public bodies shall only present the
42 recordings as official and authentic representations of the public
43 meetings if presented in their unedited form. Public bodies, if
44 presenting edited versions of the recording, shall conspicuously
45 label such as an edited version and shall include a notification that
46 the official unedited recording is available on request from the
47 public body.

48 e. A subcommittee of a public body, other than the Legislature,
49 shall prepare reports of its meetings, including any gathering that

1 would otherwise be a meeting if it were open to the public, which
2 shall be filed with the public body pursuant to a schedule prepared
3 by the public body, except that every subcommittee shall be
4 required to file at least one report with the public body each quarter.
5 A report shall include a statement of the number of meetings of the
6 subcommittee held since its last report, the names of the members
7 of the subcommittee, and a concise statement of the matters
8 discussed. A report of a subcommittee shall be available for public
9 access in the same manner, and subject to the same limitations on
10 access, as minutes of a meeting of a public body. A subcommittee
11 that has given an oral report at a meeting of the public body of
12 which it is a subcommittee shall be excused from providing the
13 public body with a written report for that quarter.

14 (cf: P.L.1975, c.231, s.9)

15
16 8. Section 10 of P.L.1975, c.231 (C.10:4-15) is amended to
17 read as follows:

18 10. a. Any action taken by a public body at a meeting which
19 does not conform with the provisions of this act shall be voidable in
20 a proceeding in lieu of prerogative writ in the Superior Court, which
21 proceeding may be brought by any person within 45 calendar days
22 after the **【action sought to be voided has been made public】** date of
23 the public meeting at which the minutes memorializing the action
24 sought to be voided are approved and put online pursuant to section
25 16 of P.L. , c. (C.) (pending before the Legislature as this
26 bill); provided, however, that a public body may take corrective or
27 remedial action by acting de novo at a public meeting held in
28 conformity with this act and other applicable law regarding any
29 action which may otherwise be voidable pursuant to this section;
30 and provided further that any action for which advance published
31 notice of at least 48 hours is provided as required by law shall not
32 be voidable solely for failure to conform with any notice required in
33 this act.

34 b. Any party, including any member of the public, may
35 institute a proceeding in lieu of prerogative writ in the Superior
36 Court to challenge any action taken by a public body on the grounds
37 that such action is void for the reasons stated in subsection a. of this
38 section, and if the court shall find that the action was taken at a
39 meeting which does not conform to the provisions of this act, the
40 court shall declare such action void. Any party, other than a public
41 body, that prevails in an action brought pursuant to this section
42 shall be awarded the amount of reasonable attorney's fees incurred
43 in bringing the action. The cost of any attorney's fee awarded by
44 the court shall be paid by the public body.

45 (cf: P.L.1975, c.231, s.10)

46
47 9. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to
48 read as follows:

1 11. Any person, including a member of the public, may apply to
2 the Superior Court for injunctive orders or other remedies to insure
3 compliance with the provisions of this act, and the court shall issue
4 such orders and provide such remedies as shall be necessary to
5 insure compliance with the provisions of this act. Any party, other
6 than a public body, that prevails in an action brought pursuant to
7 this section, shall be awarded the amount of reasonable attorney's
8 fees incurred in bringing the action. The cost of any attorney's fee
9 awarded by the court shall be paid by the public body.

10 (cf: P.L.1975, c.231, s.11)

11
12 10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
13 read as follows:

14 12. Any person who knowingly violates any of the foregoing
15 sections of this act shall be fined **[\$100.00]** \$250.00 for the first
16 offense and no less than **[\$100.00** nor more than **]** \$500.00 for any
17 subsequent offense **[**, recoverable by the State by **]** . A fine shall be
18 paid by the individual found to have committed the violation out of
19 that individual's personal funds. Under no circumstances shall
20 public funds, or contributions as defined in subsection b. of section
21 3 of P.L.1973, c.83 (C.19:44A-3) of "The New Jersey Campaign
22 Contributions and Expenditures Reporting Act," be used to pay a
23 fine or to reimburse a person who has paid, or will pay, a fine for
24 the cost of that fine. The Attorney General or county prosecutor, or
25 any member of the public, shall have standing to bring an action in
26 Superior Court to prove that a violation of P.L.1975, c.231 (C.10:4-
27 6 et seq.) has occurred.

28 An action may be brought in a summary proceeding under ["the
29 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
30 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
31 The Superior Court shall have jurisdiction to enforce said penalty
32 upon complaint of the Attorney General or the county prosecutor ,or
33 any member of the public. Whenever a member of a public body,
34 or any member of the staff of the public body, believes that a
35 meeting of such body is being held in violation of the provisions of
36 this act, he shall immediately state this at the meeting together with
37 specific reasons for his belief which shall be recorded in the
38 minutes of that meeting, and if the meeting is one from which the
39 public is excluded, the member's or staff member's statement and
40 reasons shall also be announced at and recorded in the minutes of
41 the next meeting of the public body at which the public is not
42 excluded. Whenever such a member's or staff member's objections
43 to the holding of such meeting are overruled by the majority of
44 those present, such a member or staff member may continue to
45 participate at such meeting without penalty provided he has
46 complied with the duties imposed upon him by this section.

47 (cf: P.L.1994, c.58, s.41)

1 11. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
2 read as follows:

3 13. At least once each year, within 7 days following the annual
4 organization or reorganization meeting of a public body, or if there
5 be no such organization or reorganization meeting in the year, then
6 by not later than January 10 of such year, every public body shall
7 post and maintain posted throughout the year on the public body's
8 Internet site, if the public body has established an Internet site, and
9 in the place reserved for such or similar announcements described
10 in subsection 3. d. (1), mail to the newspapers described in
11 subsection 3. d. (2), submit to the persons described in subsection 3.
12 d. (3), for the purpose of public inspection a schedule of the regular
13 meetings of the public body to be held during the succeeding year.
14 Such schedule shall contain the location of each meeting to the
15 extent it is known, and the time and date of each meeting. In the
16 event that such schedule is thereafter revised, the public body,
17 within 7 days following such revision, shall post, mail and submit
18 such revision in the manner described above.

19 (cf: P.L.1975, c.231, s.13)

20
21 12. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
22 read as follows:

23 14. Any person may request that a public body mail or
24 electronically mail to him, at his option, notice of agendas of all
25 meetings, copies of any regular meeting schedule or revision
26 described in section 13 of this act and any advance written notice
27 described in subsection 3. d. of this act of any regular, special or
28 rescheduled meeting of such body, and upon prepayment by such
29 person of a reasonable sum, if any has been fixed by resolution of
30 the public body to cover the costs of providing such notice, the
31 public body shall mail to such person written advance notice of all
32 of its meetings within the time prescribed by subsection 3. d. herein,
33 subject only to the exceptions set forth in subsection 4. b. herein.
34 Such resolution may provide that notice requested by the news
35 media shall be mailed to such news media free of charge. If a
36 person requests advance written notice by electronic mail, no
37 payment shall be required. All requests for notices made under this
38 section shall terminate at midnight on December 31 of each year,
39 but shall be subject to renewal upon a new request to the public
40 body.

41 (cf: P.L.1975, c.231, s.14)

42
43 13. (New section) In the case of State agencies, other than the
44 Legislature, the Secretary of State, through the Department of State,
45 shall create and maintain an Internet site for the posting of
46 information, including the time, date, location, and purpose, of
47 public hearings and meetings of State agencies. Each State agency
48 shall promptly notify the Secretary of State and submit the
49 necessary information concerning that agency's public hearings and

1 meetings. The secretary shall maintain on that site an electronic
2 public bulletin board that includes a monthly calendar consisting of
3 the meeting notices and agendas of all State agencies, boards and
4 commissions. The public bulletin board shall also include links to
5 other information of interest to the public, including, but not limited
6 to, Executive Branch press releases, State budget information,
7 bidding opportunities, election law enforcement information, and
8 financial and ethics disclosure information. The Internet site
9 created pursuant to this section shall also post information that is
10 provided to the Secretary of State by a public body pursuant to
11 section 16 of P.L. , c. (C.) (pending before the Legislature
12 as this bill). All information posted pursuant to this section shall
13 remain posted for a period of time determined by the State Records
14 Committee.

15
16 14. (New section) At least quarterly, a public body, other than
17 the Legislature, shall conduct a review of the minutes of any
18 previous meeting when any part has been withheld from public
19 access. The review shall determine whether any part of any minutes
20 that have been withheld from public access can now be made
21 accessible to the public. If the public body determines that any part
22 of previously withheld minutes can now be disclosed to the public,
23 it shall make that part thereof accessible to the public.

24
25 15. (New section) In addition to any other penalties imposed
26 by law, an appointed member of a public body may be removed
27 from the public body by the appointing authority because of two or
28 more violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
29 significant denial of the public's right of access as provided by that
30 act upon a determination by a court of competent jurisdiction that a
31 denial of access was significant.

32
33 16. (New section) a. Every public body, other than the
34 Legislature, that maintains or publishes an Internet site, or maintains or
35 publishes web pages on an Internet site operated by a government or
36 non-public entity, shall have posted on that site: the public body's
37 annual schedule of regular meetings and its agendas of those meetings
38 and revisions thereto; notice of any meeting held without adequate
39 notice pursuant to one of the exceptions to the adequate notice
40 requirement listed in subsection b. of section 4 of P.L.1975, c.231
41 (C.10:4-9); the minutes, prepared pursuant to section 9 of P.L.1975,
42 c.231 (C.10:4-14), of each meeting of the public body, including a
43 statement that the minutes of the closed portion of any meeting shall
44 be available upon request if those minutes have been deemed to be a
45 government record, as defined in section 1 of P.L.1995, c.23
46 (C.47:1A-1.1), which shall remain posted on the site for a period of at
47 least five years from the date of posting; resolutions and ordinances, to
48 the extent they are not already set forth in the minutes; any resolution
49 adopted by the public body for the purpose of complying with the

1 provisions of section 8 of P.L.1975, c.231 (C.10:4-13), which shall
2 remain posted on the site for a period of at least five years from the
3 date of posting; and, in the case of municipalities and counties, their
4 ordinances.

5 b. A public body that does not maintain or publish an Internet site
6 and does not maintain or publish web pages on an Internet site
7 operated by a government or non-public entity shall promptly provide
8 the information specified in subsection a. of this section to the
9 Secretary of State for posting on the Internet site created pursuant to
10 section 13 of P.L. , c. (C.) (pending before the Legislature as
11 this bill). For the purposes of P.L.1975, c.231 (C.10:4-6 et seq.), the
12 Internet site to which the information is submitted shall be deemed
13 established by each submitting public body.

14 c. A public body that is subject to subsection a. of this section
15 may comply therewith by providing the information specified in
16 subsection a. of this section to the Secretary of State and providing a
17 link thereto on its own website.

18 d. Public bodies that maintain an Internet site or pages on that site
19 pursuant to this section shall provide any requestor with free paper
20 copies of any information that is required to be posted on the Internet
21 site but is not so posted.

22 e. All information posted pursuant to this section shall remain
23 posted for a period of time determined by the State Records
24 Committee.

25
26 17. (New section) When a public body provides information on
27 the Internet, it shall make a reasonable effort to make the existence
28 and location of its site or pages known to members of the public
29 within its jurisdiction by, at a minimum, including such information
30 in its required written public notices, agendas, and minutes and by
31 announcing it at its public meetings.

32
33 18. (New section) A public body shall determine for each
34 subcommittee whether meetings of that subcommittee shall be open
35 to the public. For a meeting of a subcommittee that will be open to
36 the public, the public body shall provide adequate notice of that
37 meeting; however, other requirements applicable to meetings of
38 public bodies shall not apply to meetings of a subcommittee. A
39 subcommittee that holds meetings open to the public may exclude
40 the public only from that portion of a meeting at which the
41 subcommittee discusses matters set forth in subsection b. of section
42 7 of P.L.1975, c.231 (C.10:4-12), and if pursuant to the procedures
43 set forth in section 8 of P.L.1975, c.231 (C.10:4-13).

44
45 19. This act shall take effect on the 120th day after the date of
46 enactment.

STATEMENT

1
2
3 This bill revises the “Senator Byron M. Baer Open Public
4 Meetings Act,” N.J.S.A.10:4-6 et seq., to provide greater public access
5 to meetings of public bodies and information about those meetings.
6 The bill clarifies and expands the public’s right to receive notice of
7 meetings of public bodies, to be present at such meetings and, under
8 certain circumstances, to be heard at meetings, as well as to have
9 access to minutes of meetings. It extends the scope of the act to apply
10 certain of its provisions to subcommittees and to include certain quasi-
11 governmental entities. The bill also addresses issues relating to
12 communications among members of a public body, the recording of
13 meetings, the posting of meeting-related information on the Internet,
14 the use of closed sessions, and penalties for violations.